STATUTORY RESOLUTION

I. Seeking Disapproval of the Telecom Regulatory Authority of India (Amendment) Ordinance, 2000.

II. The Telecom Regulatory Authority of India (Amendment) Bill,, 2000.

SHRI BALWANT SINGH RAMOOWALIA (Uttar Pradesh): Sir, I move that:

> 'that this House disapproves of the Telecom Regulatory Authority of India (Amendment) Ordinance, 2000 (No.2 of 2000) promulgated by the President on the 24th January, 2000.'

Sir, I speak with great anguish that the TRAI Ordinance was promulgated in utmost haste. One fails to understand, when there was a period of just three weeks or four weeks, and Parliament was to be called, when both the Houses were to meet, why such an undue haste was shown, or why this step was taken. Sir, there are a few questions which demand immediate answer from the Government of India. The Ordinance was promulgated to remove the existing TRAI. Sir, a long time has passed and the Government has failed even to appoint all members for the TRAI. A few members were appointed, but not all. Now, Sir, I am quoting from *Tribune*, an English daily from Chandigarh : "The throttling monopoly of the DoT and the MTNL in two metropolitan cities and finally, the enthusiasm of the bureaucrats to retain their horses in power, India's tryst with wrong number is going to be long."

Though MNCs have supported the Ordinance, by and large, the common users have not supported it. The overhauling of TRAI should have been done after adequate discussions. Sir, no time has been given to the representatives of the people, who are sitting here, to discuss the functioning of TRAI, its drawbacks and the need for its further improvement. For instance, a serious doubt is prevailing in the mind of the common man. We are aware of the functioning of the Government. All important opinion-makers have given their views. They say that when the session was just three weeks away, the Government should not have issued such an Ordinance. Obviously, there was pressure from certain quarters. What were the compulsions before the Government? Which were the lobbies involved in it which compelled the Government to take such a hasty decision?

The country wants to know it. The Government must come out in the open. The loss of revenue suffered by the Government amounts to Rs.300 crores. The Government has suffered this loss because they had decided to do away with the licence fee and to go in for revenue sharing. These things should have been discussed in the House. Through this Ordinance the Government has removed TRAI from the purview of C&AG. This is a very serious matter because C&AG has not taken a *suo motu* decision. The C&AG has thoroughly checked and investigated and has gone deeply into the functioning of the staff of TRAI. The C&AG has made a severe indictment of lavish expenditure by the members of TRAI during their trips abroad. It is very strange. Instead of controlling the lavish expenditure, the Government has unbridled them and has given them a free hand. These are the drawbacks. The Government will have to answer this question. Why have they done it? So far as modalities are concerned, the Government has kept in mind only the views of the strongest lobby and the interested lobby. Where was the need for such a hurry? The Parliamentary Standing Committee on Telecommunications was discussing this issue. Discussions were in progress. Meetings were going on and witnesses had been called to respond to the queries of the Members of the Committee. But the Government has completely bypassed and ignored the Standing Committee. Sir, this House cannot approve or accept this attitude of bypassing the Standing Committee.

So, Sir, this House was not expecting any such ordinance. Ordinances are issued only when there is an utmost need or an emergency to meet some such issues which need immediate attention of the country and which are of very grave nature in larger interests of larger sections of the people. I do not want to use harsh words because of my respect for Shri Paswanji. But, as one of the great leaders, he has to explain why the Government had gone in for issuing an ordinance just for the benefit of some multinational companies. Sir, this House was expecting a full-fledged Bill on TRAI and not an ordinance.

With these few words, I strongly oppose the ordinance and I urge upon the Minister that this ordinance be withdrawn, and that the right and supremacy of the House in discussing utmost, urgent matters in the House be restored and recognised.

Thank you, Sir.

संचार मंत्री (श्री राम विलास पासवान) : सभापति जी, मैं प्रस्ताव करता हूं :

'कि भारतीय दूर संचार विनियामक प्राधिकरण, 1997 का संशोधन करने वाले विधेयक पर, जिस रूप में वह लोक सभा द्वारा पारित किया गया है, विचार किया जाए।'

सर, अभी हमारे साथी, पर बहुत ही हमारे नज़दीकी दोस्त रामूवालिया जी ने इसके डिस्एप्रूवल के संबंध में रेज़ोल्यूशन मूव किया। अब मैं कुछ इसके संबंध में आपके सामने निवेदन करना चाहूंगा । यह जो आर्डिनेंस है आलरेडी यह लोक सभा में पास हो चुका है और मैं धन्यवाद देना चाहता हूं कि सब लोगों ने इसकी गंभीरता को समझने का काम किया है। हम सब लोग यहां बैठे हैं, आज भले ही हम सत्ता पक्ष में हों, विरोध पक्ष में हों, लेकिन कुछ बातें हैं जो नेशनल इंटरेस्ट की होती हैं और उसमें सत्ता और विपक्ष, कहीं न कहीं उनका नेशनल इंटरेस्ट का गोल एक होता है और जब हम बाद में इस चर्चा का जवाब देंगे तो हम विस्तार से उस पर जायेंगे कि इसका ओरिजिनेट कहां से हुआ। यह 1991 में, जब से सरकार की नई उदारीकरण की नीति बनी और वहां से सारा मामला शुरू हुआ है, लेकिन वह बाद का मामला है । मैं संक्षेप में, इसके लाने के जो उद्देश्य हैं, उनकी ओर सदन का ध्यान खींचना चाहूंगा ।

श्री दीपांकर मुखर्जी (पश्चिमी बंगाल): आर्डिनेंस क्यों लागू किया गया, यह तो थोड़ा सा बता दीजिए?

श्री राम विलास पासवान: हां, यहां अभी आपने कहा कि आर्डिनेंस को बहुत जल्दबाज़ी में लाने का काम किया गया। असंल में अभी जिस तेजी से संचार के मामले में संसार और देश भाग रहा है और आगे चल रहा है, उसमें एक-एक मिनट के समय का काउंटिंग है और जब हमने घोषणा की है, वैसे हमने घोषणा नहीं की है, बल्कि पहले की जो सरकार थी उसने भी यही घोषणा की थी कि 1997 तक, पूरे देश के हर गांव में, हम टेलीफोन लगायेंगे और लोगों को संचार की बेसिक सुविधा प्रदान करने का काम करेंगे।

महोदय, आज 50 साल से टेलीफोन डिपार्टमेंट काम कर रहा है, लेकिन हम दावे के साथ कह सकते हैं कि पिछले तीन सालों में जो कनेक्शंस दिए गए हैं, जितना हमने टार्गेट पूरा किया है, जितना पिछले 50 साल में हुआ उतना पिछले तीन सालों में हुआ है। उसका सबसे बड़ा कारण यह रहा कि सरकार ने 1991 में जो नीति में परिवर्तन किया, चाहे हम किसी भी पक्ष के लोग हों, लेकिन इस बात को मानकर चलते हैं कि हम संसार से किसी भी क्षेत्र में अपने को पीछे नहीं रखना चाहते हैं। फिर महोदय, सरकार के सामने सोशल ऑब्लीगेशंस हैं। हमारे सामने बेरोजगारी की समस्या है, पानी की समस्या है

और हत तरह की समस्या है जिन्हें देखते हुए यह अकेले सरकार के बलबूते के बाहर की चीज है कि सरकार संचार के मामले में आत्म-निर्भर हो सके और लोगों की आवश्यकताओं की पूर्ति कर सके। महोदय, अमेरिका में 100 में से 67 लोगों के पास टेलीफोन सुविधा है। फिर आज के समय में टेलीफोन कोई लक्जरी की चीज नहीं है। आज इंटरनेट पर सारा संसार क्रान्ति कर रहा है जबकि हमारे पास सिर्फ 2.5 टेलिडेंसिटी है। देहाती इलाके में यह 0.6 है। इसलिए हम ने टार्गेट बनाया है कि सन् 2005 तक 100 में से 7 लोगों के पास टेलीफोन ले जाएं, हमने टार्गेट बनाया कि सन् 2010 तक 17 लोगों के पास टेलीफोन ले जाएंगे, लेकिन कहाँ से ले जाएंगे? उसके लिए फंड भी चाहिए, लेकिन हमारे पास पेसा नहीं है। तो जो हमारे इंडस्ट्रियलिस्ट्स हैं, इनवेस्टर्स हैं, प्रायवेट ऑपरेटर्स हैं - वह और हम मिलकर काम करना चाहते हैं। लेकिन बार-बार एक बात कुछ माननीय सदस्यों के दिमाग में रहती है, उस दिन भी मैंने कहा था कि यह बात मानकर नहीं चलना चाहिए कि हम बड़े राष्ट्रभक्त हैं और जो अन्य लोग हैं, पार्लियामेंट के मेंबर्स हैं या जो सरकार में नहीं है, वह राष्ट्रद्रोही हैं। महोदय, देश को बनाने के लिए, संवारने के लिए सभी लोगों को एक साथ उस दिशा में चलना होगा। हाँ, कहीं इस मामले में हम किसी मल्टीनेशनल के सामने झुकने का काम न करे। लेकिन इस का मतलब यह नहीं है कि जिस लीक पर हम चल रहे थे, वही लीक सही थी और जो चीज हो रही है वह गलत हो रही है।

उपसभाध्यक्ष महोदय, ऑर्डिनेंस इसलिए लागू किया गया कि हम इस काम को तेजी से आगे बढ़ाना चाहते हैं। इसके लिए हम एक मिनिट का समय भी बर्बाद नहीं करना चाहते हैं। जो कुछ बीच में हुआ, जब से यह सिस्टम आया, अभी हमारे साथी लाइसेंस फी की बात कर रहे थे। उसके बाद रेगुलेटर सिस्टम आया या रेवेन्यू शेअरिंग का मामला था, उसमें जो कनफ्यूजंस थे, उससे ऐसा लग रहा था कि मुकदमेबाजी चलेगी और उसके बाद ऐसा लगा कि हमारी टेलीफोन इंडस्ट्री के विकास के सामने बाधाएँ उत्पन्न हो रही हैं।

श्री दीपांकर मुखर्जी: सर, हमें आप का प्रोटेक्शन चाहिए।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): आप बैठिए, मंत्री जी मना कर रहे हैं। ...**(व्यवधान)**... बैठिए आप, बोलने दीजिए। आप की पार्टी से भी लोग बोलेंगे। समय है।

श्री दीपांकर मुखर्जी: सर, वह रिजॉल्यूशन के बारे में बताएँ।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): अभी आप नहीं बोल सकते, बैठिए।

श्री राम विलास पासवान: सर, जब अक्टूबर के महीने में माननीय राष्ट्रपति जी दोनों सदनों को सम्बोधित करने आए थे, उस समय उन्होंने इस संबंध में सरकारी नीति की घोषणा की थी कि हम टी.आर.आई. को मजबूत करेंगे, उसको शक्तिशाली बनायेंगे। हम

उस दिशा में जल्दी-से-जल्दी कदम उठाना चाहते थे और हमने कदम उठाए। महोदय, जब माननीय सदस्य प्रश्न करेंगे तो मैं अंत में जवाब दूंगा कि जो हमारे मेंबर्स हैं, चैयरमेन हैं या जो नए आने वाले हैं, उनकी सारी-की-सारी प्रक्रियाएँ पूरी हो चुकी हैं। कुछ लोगों ने जॉइन किया है, कुछ लोग जॉइन करने वाले हैं। तो इतना समय तो बाद में लगता ही। इसलिए न तो कहीं स्टेंडिंग कमेटी की अवहेलना का सवाल है और न कहीं पार्लियामेंट की अवहेलना का सवाल है। महोदय मैंने उस दिन भी कहा था कि हम सभी पार्लियामेंट के मेंबर हैं, आज से नहीं सन् 1977 से यानी पिछले 23 साल से पार्लियामेंट के मेंबर हैं और कभी कोई आदमी सोच भी नहीं सकता कि हमारी इस सर्वोच्च संस्था की डिग्निटी पर कोई आँच आए।

सर, इसके साथ ही इस बिल की जो कुछ मुख्य बातें हैं, वह मैं आपके सामने रखना चाहता हूँ।

श्री दीपांकर मुखर्जी: विधेयक के बारे में बात करने से पहले, रिजॉल्यूशन के बारे में मंत्री महोदय को स्पष्ट कर देना चाहिए कि संसद इस बारे में बाधा है और आज जल्दी में सुधार लाना चाहते हैं क्योंकि रिजॉल्यूशन के बारे में कोई जवाब नहीं दिया गया है।

श्री राम विलास पासवान: सर, उस समय संसद तो नहीं चल रही थी। ...**(व्यवधान)**...

उपसभाध्यक्ष (श्री मोहम्मद सलीम) : आप सुनिए।

श्री रामविलास पासवान : सर, 24 जनवरी को आर्डिनेंस जारी किया गया, उस वक्त पार्लियामेंट सैशन में नहीं थी। जिस दिन पार्लियामेंट सैशन में आई उसी दिन से हम कोशिश कर रहे हैं कि पार्लियामेंट में इस आर्डिनेंस को बिल के रूप में लाकर जल्द से जल्द पास कराएं। अब इसमें अवहेलना का सवाल कहां है? मैं आपसे इतना निवेदन करना चाहता हूं कि ...**(व्यवधान)**...

श्री दीपांकर मुखर्जी : यह आर्डिनेंस अगर 24 जनवरी को जारी नहीं होता तो देश पर क्या आपत्ति आ जाती? यह आर्डिनेंस अगर 24 जनवरी को जारी नहीं होता तो देश पर क्या आपत्ति आ जाती, वह हम सबको जानना है कि संसद की अवहेलना करना आपके लिए क्यों इतना जरूरी था ?

श्री रामविलास पासवान : मैंने जैसा कहा कि तीन लाख गांवों में टेलीफोन नहीं लगे हैं और जैसा मैंने कहा कि हम पूरे देश में दो साल में टेलीफोन लगाएंगे । 365 दिन का एक साल होता है और 365 को 2 से गुणा कर दें तो 730 दिन होते हैं और 730 दिन में एक-एक मिनट की, एक-एक दिन की कीमत होती है।

श्री दीपांकर मुखर्जी: पासवान जी, यह हम सुखराम जी के समय से सुन रहे हैं कि तीन लाख गांवों को टेलीफोन देंगे ।

उपसभाध्यक्ष (श्री मोहम्मद सलीम): पहले मंत्री जी को अपनी बात पूरी करने दीजिए ।

श्री रामविलास पासवान : उपसभाध्यक्ष महोदय, मैं आपसे निवेदन करना चाहता हूं कि यह विधेयक "टेलीकॉम रेगुलेटरी अथारिटी आफ इंडिया अमेंडमेंट अध्यादेश 2000" के स्थान पर लाया जा रहा है ।

यह अध्यादेश 24 जनवरी, 2000 को जारी किया गया था । 'टीआरएआई' का गठन संसद में विधान पारित कर 1997 में किया गया था और सैक्शन 11 के अधीन उनको कार्य एवम् यह शक्तियां दी गई थीं कि वे रिकोमेंडेटरी, रेगुलेटरी, डिस्प्यूट सेटलमैंट फंक्शन एंड टैरिफ सैटिंग का काम करें । सैक्शन 13 के अधीन - टू ईश्यू सच डायरेक्शन टू सर्विस प्रोवाइडर्स और सैक्शन 14 के अधीन - ऐडजुडिकेटरी पावर्स (लिमिटेड), हालांकि उसमें लिमिटेड सैंस में था, उनको सैटलमेंट आफ डिस्प्यूट का काम दिया गया था ।

1997 के अधीन टीआरएआई को लाइसैंसर और लाइसैंसी के बीच तथा सर्विस प्रोवाइडर्स के बीच किसी भी विवाद में ऐड्जूडिकेशन की पावर नहीं थी, लेकिन दूसरी ओर टीआरएआई का मानना था कि उसे लाइसैंसर और लाइसैंसी के बीच विवाद निपटाने का अधिकार है । इसके कारण कई तरह की मुकदमेबाजी हुई और टेलीकम्युनिकेशन के विकास में बाधा उत्पन्न होने लगी ।

1999 की न्यू टेलीकाम पालिसी के अधीन लाइसैंसर और लाइसैंसी के बीच विवादों को निपटाने हेतु आरबिट्रेशन का कार्य टीआरएआई को सौंपा गया । फिर भी बार-बार यह मांग उठती रही कि टीआरएआई के रोल और ज्यूरिडिक्शन को डिफाइन किया जाए । रेगुलेटरी फ्रेमवर्क को मजबूत किया जाए जिससे इन्वेस्टर्स का विश्वास बढ़े । इसको ध्यान में रखते हुए 25 अक्तूबर, 1999 को राष्ट्रपति महोदय द्वारा संसद के संयुक्त अधिवेशन में टीआरएआई को शक्तिशाली बनाने का इरादा ज़ाहिर किया गया । उसके बाद 13.12.1999 को वित्त मंत्री की अध्यक्षता में 'ग्रुप ऑन टेली एंड आई.टी. कन्वरजेंस दल' का गठन किया गया । उक्त कमेटी ने श्री अरुण जेटली की अध्यक्षता में एक उप दल का गठन किया । सरकार ने ग्रुप ऑन टेलीकॉम एंड आई.टी. कन्वरजेंस की रिपोर्ट को स्वीकार कर लिया । चूंकि संसद का अधिवेशन नहीं चल रहा था, अतः 24 जनवरी, 2000 को अध्यादेश जारी कर दिया गया ।

पहले टीआरएआई को धारा 11 के अधीन रिकोमेंडेटरी, रेगुलेटरी, टैरिफ और डिस्प्यूट सैटलमेंट का कार्य था । इसके अतिरिक्त धारा 13 के अधीन टीआरएआई के पास

सर्विस प्रोवाइडर्स को डायरेक्शन ईश्यू करने का भी अधिकार था ।

नए बिल में टीआरएआई के कार्य को स्पष्ट कर दिया गया है और टीआरएआई को धारा 11(1)ए में रिकोमेंडेटरी पावर एवं 11(1)बी में रेगुलेटरी पावर दी गई हैं। डिस्प्यूट सैटलमेंट के कार्य को टीआरएआई के फंक्शन से अलग कर दिया गया और उसके लिए अलग से ट्रिब्यूनल बना दिया गया। अब धारा 13 के अनुसार टीआरएआई केवल सर्विस प्रोवाइडर्स को, वह भी रेगुलेटरी फंक्शन में ही, डायरेक्शन जारी कर सकती है।

पहले लाइसैंस प्राप्त करने के मामले में टीआरएआई की सिफारिशों को प्राप्त करना सरकार के लिए अनिवार्य नहीं था, अब इसे अनिवार्य बना दिया गया है। जिस दिन से सरकार रिकमेंडेशन मांगेगी, टीआरएआई को 60 दिनों के अंदर अनुशंसा देनी होगी। यदि 60 दिनों के अंदर रिकमेंडेशन नहीं आई या टीआरएआई और सरकार के बीच में कोई आपसी समझौता नहीं हुआ तो सरकार लाइसैंस जारी कर सकती है। महोदय, ट्राई यदि किसी बिंदु पर क्लैरिफिकेशन चाहती है तो सरकार को 7 दिनों के अंदर क्लैरिफिकेशन देना होगा लेकिन ये सिफारिशें 2 बिंदुओं पर ही सरकार के लिए अनिवार्य हैं -

पहला यह कि कब और कितने नए सर्विस प्रोवाइडर्स की आवश्यकता है ? यदि है तो कब से उनको लाया जाएगा । दूसरा बिंदु यह है कि सर्विस प्रोवाइडर्स को किन शर्तों पर लाइसेंस दिया जाएगा ।

महोदय, ट्राई की रिकमंडेशंस की प्राप्ति के बाद सरकार यदि इन रिकमंडेशंस को ऐक्सैप्ट नहीं कर सकती है या उसमें कोई संशोधन चाहती है तो वह उनको पुनर्विचार के लिए ट्राई के पास भेजेगी और ट्राई 15 दिनों के अंदर अपनी रिकमंडेशंस पर पुनः विचार करके अपनी अंतिम सिफारिशें सरकार के पास भेजेगी और उसके बाद सरकार उस पर फाईनल डिसीजन ले सकेगी ।

महोदय, यह क्लैरिफाई कर दिया गया है कि ट्राई की रिकमंडेशंस मानने के लिए सरकार बाध्य नहीं होगी। धारा 11 के अधीन ट्राई को कुछ अतिरिक्त काम भी सौंपे गए हैं -

> "To lay down the standards of quality of service and to ensure the quality of service; to make recommendations on the technological improvement in the service; to make recommendations on the efficient management of available spectrum.

तो ये अतिरिक्त काम उनको सौंपे गए हैं ।

महोदय, जहां तक क्वालिफ़िकेशन का सवाल है, पहले ट्राई के चेयरपरसन सुप्रीम कोर्ट के सिटिंग या रिटायर्ड जज या फिर हाई कोर्ट के सिटिंग या रिटायर्ड चीफ जस्टिस हुआ करते थे । अब इस अनिवार्यता को समाप्त कर दिया गया है । अब जिसके पास दूरसंचार उद्योग, वित्त, लेखा कार्य, विधि, प्रबंध या कंज्यूमर अफेयर्स का विशिष्ट ज्ञान हो, वह चेयरमैन बनने का हकदार हो सकता है ।

महोदय, जहां तक कार्य अवधि का सवाल है, पहले अध्यक्ष की कार्य अवधि 5 वर्ष थी और सदस्यों की कार्य अवधि 5 वर्ष या 65 वर्ष की आयु (जो भी पहले हो) थी । अब इसे बदल दिया गया है । अब अध्यक्ष और सदस्यों के लिए कार्य अवधि 3 साल या 65 वर्ष की आयु (जो भी पहले हो) निर्धारित की गई है ।

महोदय, जहां तक ऑडिट का सवाल है, सैक्शन 23(1) में कहा गया है कि -

"The authority shall maintain proper accounts and other relevant records."

"सैक्शन 23(2) में कहा गया है कि The account shall be audited by the CAG."

इसमें आगे ऐक्सप्लेनेशन जोड़ दिया गया है कि -

1. रेगुलेटरी फंक्शन
2. टैरिफ
3. डॉयरेक्शन में

लेखा परीक्षा (सी.ए.जी.) नहीं की जा सकती और लिख दिया गया है कि -

"शंकाओं को दूर करने के लिए यह घोषित किया जाता है कि धारा-11 (Regulatory, Tarrif) तथा धारा-13(Direction to service providers) की उपधारा (1) एवं उपधारा (2) के खंड-ख के तहत

ट्राई द्वारा अपने कार्यों के निर्वहन हेतु लिए गए निर्णयों जिसकी अपील ट्राईब्यूनल में हो सकती है, में लेखा परीक्षा नहीं की जा सकती" ।

Regarding Telecom Disputes settlement and Appellate Tribunal, पहले सैक्शन 14 के अधीन ट्राई को कुछ मामलों में Adjudicatory powers दी गई थीं। अब चैप्टर (iv) की धारा-14 से 20 तक बदल दी गई हैं और ये अधिकतर ट्राईब्यूनल को दे दी गई हैं ।

महोदय, जहां तक कंपोज़ीशन का सवाल है, अब इसमें एक अध्यक्ष तथा 2 सदस्य होंगे। पहले जो ट्राई के चेयरमैन के लिए क्वालिफिकेशन नियत थी, वही ट्राईब्यूनल

के चेयरमैन की होगी। यानी सुप्रीम कोर्ट के सिटिंग या रिटायर्ड जज या हाई कोर्ट के वर्तमान या भूतपूर्व मुख्य न्यायाधीश, इस ट्राईब्यूनल के चेयरपर्सन हो सकते हैं। मेंबर्स के लिए यह क्वालिफिकेशन तय की गई है कि वे भारत सरकार या उसके अनुरूप राज्य सरकार में सेक्रेटरी के पद पर कम से कम 2 साल तक काम कर चुके हों और उन्हें टेक्नोलोजी, टेलीकम्युनिकेशंस, इंडस्ट्री, कॉमर्स या ऐडमिनिस्ट्रेशन के फील्ड में जानकारी हो।

महोदय, इस बिल का उद्देश्य इन्वैस्टर्स में विश्वास पैदा करना और टेलीकॉम इंडस्ट्री का विकास करना है। मैं आपकी जानकारी के लिए यह बतला देना चाहता हूं कि जितने भी इंडस्ट्रीज़ और गैर-इंडस्ट्रीज़ के लोग थे - सी.आई.आई., फिक्की, सेलुलर ऑपरेटर्स ऑफ इंडिया, ऐसोसिऐशन ऑफ बेसिक टेलीकॉम ऑपरेटर्स आदि सभी ने इसका स्वागत किया है । लोकसभा ने इस बिल को पास कर दिया है । मैं माननीय सदस्यों से आग्रह करूंगा कि इसमें सरकार की नीयत न तो किसी को बढ़ावा देने की है, न किसी को गिराने की है, न किसी को बचाने की है । सरकार की नीयत यह है कि देश में औद्योगिक क्रांति हो और संचार के क्षेत्र में जो पूरे संसार में क्रांति हो रही है, उसमें हमारा मुल्क भी दूसरे देशों की बराबरी में आ जाए । इसलिए मैं सभी पक्षों के सदस्यों से आग्रह करूंगा कि वे सर्वसम्मति से इस बिल को पास करें । मैं इस बिल को विचार के लिए सदन के सामने प्रस्तुत कर रहा हूं ।

The questions were proposed.

THE VICE-CHAIRMAN (SHRI MD. SALIM): We will discuss the Statutory Resolution and the TRAI Bill together.

[THE VICE-CHAIRMAN (SHRI SANATAN BISI) in the Chair]

SHRI KAPIL SIBAL (Bihar): Mr. Vice-Chairman Sir, I am thankful to you for allowing me to participate in this discussion. I have listened very attentively to whatever the hon. Minister has stated on the floor of this House. I do not think there can be two opinions on the fact that in the modern world India must compete and unless there is quick progress in the area of telecommunications, we will certainly lag behind in certain core sectors which are necessary for our development. Having said that, Sir, I was a little pained to hear the Minister when he said, the purpose of amending the original Act was to strengthen the TRAI. Whatever the hon. Minister said that the purpose of these amendments was indeed to strengthen the TRAI and that there was no ulterior purpose whatsoever. I am pained to hear that,

because, if you look at the amendments and if you analyse the amendments one by one, you will realise that the primacy given to the TRAI in the original Act has been completely destroyed.

From an independent authority functioning with transparency, it has become a dependent authority functioning under the control of the Government. That has been the effect of this amendment. I would request the hon. Minister to consider what I say very carefully. I will divide my address into three specific sections to prove my point. The first I take is of the composition and the constitution of the TRAI as envisaged under the amendment as opposed to the constitution and composition that was originally incorporated under the TRAI Act.

Sir, as you know, originally, the TRAI was to consist of not less than two persons and not more than six persons. Secondly, originally, no member of the TRAI could be removed from his position on account of certain specific provisions, for example, if a person has acquired financial or other interest as is likely to affect prejudicially his functions as a member, or has so abused his position as to render his continuance in office prejudicial to the public interest. These are clauses (d) and (e) of Section 7 of the original Act. Under the original Act, no member of the TRAI could be removed unless there was a reference in the Supreme Court, unless there was an inquiry held by the Supreme Court and in an answer to the reference the Supreme Court has advised that, in fact, that particular person has acquired an interest or has abused his position. What has the new Act done, Sir? The new Act has removed that protection. Under the new Act, today, Sir, a member of the TRAI is nothing except a Government servant. I will demonstrate it to you presently, Sir.

Section 7(2) says, 'No such person shall be removed from his office" under clause (d) and (e), which I read, of sub-section (1), "unless he has been given a reasonable opportunity of being heard in the matter." Under the previous Section 7, there had to be an inquiry conducted by the Supreme Court. on a reference and only if the Supreme Court had decided that such person had abused his position, could such a person be removed but now you have removed that protection! Now you say under the new Act that he will be removed after giving him a reasonable opportunity which is available to every Government servant in this country.

So, instead of the primacy that the TRAI enjoyed under the original Act, you have, in fact, destroyed that primacy. You have made him dependent on the Government. That is point No.1. Now, point No.2. Originally such a person who was to be appointed as the Chairman of the TRAI had to be either a Judge of the Supreme Court, retired or sitting, a Chief Justice of the High Court, retired or sitting. You have also removed that provision. Now you say you will appoint him, provided he is familiar with the area, he has special knowledge in telecommunication, industry, finance, accountancy, law and other things. Therefore, instead of having a judicial officer as the head of the TRAI, you will now have your own person. What is your intention? Why did you bring about these changes? Was the previous Chairman not listening to you? Is it not a fact that the previous Chairman was being barraged, was being questioned by the DoT, when he exercised his functions? Is it not a fact that there was a case pending in the High Court wherein the DoT was challenging the authority of the TRAI? Is it not a fact that in the High Court the TRAI went to a Division Bench of the Delhi High Court to say, "Please interpret the statute and decide what our functions are to be." Is this not a fact? What did you do? By one stroke of the pen, you removed all the appointees under the previous Act. And that is the reason for an Ordinance. You issued an Ordinance on 24th January because you knew that the Parliament was not in session. You incorporated a provision in that Ordinance which is now a part of this Bill wherein you said that all previous appointments are hereby done away with. So, overnight you removed them. Why? Because they were functioning independently, because they were discharging their functions transparently, and this was not to the liking of the Government. So much for your claim that you want to strengthen the TRAI. Now I come to the second point and that relates to powers and functions of the TRAI. You look at the previous Act. I was amazed when I was comparing the powers and functions under the previous Act which are now set out in section 11 of the new Bill and what I found was rather interesting. Under the previous Act, the TRAI, in fact, had the authority to recommend the terms and conditions of the licence and also revoke the licence of a subscriber or any service provider. Now what you have cleverly done is that you have divided the functions of the TRAI into recommendatory functions and other functions. You have included the revocation of the licence under recommendatory functions. In other words, if the TRAI found under the original Act that a particular service provider was

violating the conditions of licence or doing things which were not in public interest, the TRAI could, in fact, recommend or decide on the revocation of the licence. Now the TRAI considered the MTNL also as a service provider. Where is the hub of the problem? The problem is that the MTNL is as much a service provider as any other private entity is. So, the TRAI considered both these service providers at par, level playing field that you talk about. Now, when you realised that the TRAI in exercise of its powers acted against the MTNL, the DoT did not want that. So, what did the Government do? The Government decided that as far as the Government is concerned, it is above the TRAI, as far as the DoT is concerned it is above the TRAI.

It is the licensor, which is why you have included the definition of licensor, for the first time, in this amendment Bill. And, because it is the licensor and because it is above the TRAI, now, the TRAI cannot act against the MTNL at all. Now, it is a part of its powers on recommendations. It is for the Government to accept that recommendation or not. The entire structure of the TRAI Bill, which caters to independence, which caters to transparency, which caters to a level-playing field amongst all the service providers, you have destroyed it by one stroke of a pen. Is this how you wanted to strengthen the TRAI? I give you yet another example. There were two very important powers in the original Act which vested with the TRAI. One was to protect the interests of the consumers of telecommunication services. It was a very wide power. The TRAI could issue any direction, do anything to protect the interests of the service providers. It was taken out. That power now does not exist with the TRAI. The second one was to settle disputes between service providers. When you constitute a TRAI and when that TRAI is going to settle disputes between the service providers, it would mean that if there is a dispute between the MTNL and another private service provider, who would settle it? The TRAI. That was the power vested with the TRAI. You have now taken it out. No such power exists in the present Bill. Why? Because the TRAI should not be seen to be settling any dispute. Now an appellate tribunal will settle it. In other words, now, the Government will decide what to do and if there is a dispute, you go to a tribunal. And, you know, Sir, what happens in a tribunal? It takes years to settle any dispute. You tell me which tribunal in this country settles disputes in less than two years, three years, four years or five years. And then, after the tribunal, what happens? You go to the Supreme Court. And how many years does it take in the Supreme Court? So, you have changed the whole process.

SHRI SATISHCHANDRA SITARAM PRADHAN: No problem. Mr. Sibal is there.

SHRI KAPIL SIBAL: No individual matters in any court. It is the process of justice which is slow and the hon. Minister knows that and the Government also knows that. If the TRAI had the power to adjudicate, justice would be instant. But, no Government is interested in instant justice. The Government is interested in instant decision-making for a purpose and that is why you have changed it. It is case by case. Sir, under section 13 of the original Act, - this is very, very interesting - it is said, "The authority, for the discharge of its function, under Section 11..." - which has all the power of the authority - "...shall issue directions, from time to time, to service providers as it may consider necessary." In other words, for any function under the Act, the TRAI could issue any direction to any service provider, whether it is the MTNL or a private service provider. Now you have taken away that power from the TRAI because, under Section 12(4) of the original Act, the authority has the power to issue directions to service providers as it may consider necessary for the proper functioning of the service providers. That was the specific provision in the original TRAI Act. Now you have deleted it. What does your provision say under the present Bill? Sir, I read it out for you. This is an amendment to the present Act. This is what it says. It is section 10 of the proposed amendment but clause 13 of the present Bill. It adds a new proviso to clause 13 and I am reading out the proviso. It says, "Provided that no direction under sub-section 4 of section 12 or under this section shall be issued except on matters specified in clause (b) of sub-section 1 of section 11." In other words, all matters in clause (a) of the Bill, which relate to the recommendatory powers of the TRAI, are outside the purview of clause 13. In other words, the TRAI cannot issue any directions under clause 13 with respect to all the recommendatory powers under section 11 (1)(a). Why have you done that? What is the reason for doing that? Is it to strengthen the TRAI or is it to weaken it? I ask the hon. Minister this question. So much, Sir, for the powers and functions of the TRAI.

The third aspect, which is equally important, is the settlement of disputes mechanism.

I want to make a fundamental point. I am not talking of party politics. I want to make a fundamental point: Does this House want that every time when there is a special authority set up by the Government of

India, a retired judge of the Supreme Court, or, a judge of the High Court should man that office? I see in Bill after Bill, statutes after statutes, a provision which entitles a retired member of the judiciary, or, a sitting member of the judiciary. No sitting member of the judiciary has ever left to join authorities like this. Always retired members of the judiciary join offices of this nature. Do you want that judges, just before a few years of their retirement, or, before their retirement, should be looking for jobs in special authorities of this nature? Do you think it is good for the judiciary? Do you think it is good for democracy? This is a fundamental issue that you must think of. When you talk of settlement of disputes and when you appoint judges of that stature, then... *(Interruptions)* Obviously, it is not the only Act. I can name you at least 20 Acts. My learned friend, Shri Chaturvediji, and I, were discussing this issue when we were dealing with another Bill. That Bill has gone to the Select Committee. But, in Bill after Bill, in Act after Act, you have special provisions of this nature. In fact, there are some statutes, especially the Human Rights Commission, where, in fact, only Chief Justices are entitled to man the post. So, your point is limited. Why should any Government do it? Why should this happen? A regulatory authority of this nature requires certain specialized knowledge. The Delhi communication industry requires specialised technical knowledge. Certainly, it requires some element of knowledge in the area of law, but surely there are reasonable men in this country not necessarily judges of Supreme Court, or, a High Court, who could man a authority of this nature. So, I urge upon the Government that this is an area that you must reconsider. See what you have done by taking away the power of adjudication from the authority and giving it to an appellate tribunal. See the consequences of that. The consequence of that is that every time, when the Government takes a decision and any individual service-provider is unhappy with that decision, there is a dispute between the Government and the service-provider. Then, instead of the authority deciding the dispute because that power has been taken away by you, it will immediately go to the tribunal. Then, the tribunal will sit in benches. You know, in the matter of tribunals, there are regular pleadings, there are issues that are struck, there are evidences. And you are talking about 'minute-by-minute'. The hon. Minister has just now made a very important statement, "We have lost 365 X 2, and every minute matters". If this was your intention, why instead of having the authority deciding the matter, you have set up an appellate tribunal, where there will be delay

minute by minute because you know, the matter, the dispute, will be resolved in 10 days or 20 days, in one month or two months, or even in two years? And even then, the matter does not end at the appellate tribunal level. The matter then immediately goes to the High Court because under the law, now amended by the Supreme Court, the Supreme Court has now held that against every decision of the appellate tribunal, a petition under Article 226 shall lie. Previously, there were some statutes which said that under Article 226 no petition will be allowed, especially with reference to service tribunals. Originally, the Act provided, with reference to service-providers, that when there is a decision by the tribunal, a petition under Article 226 will not be allowed, and you will have to go straight to the Supreme Court. The Supreme Court has now ruled that Article 226 is the basic feature of the Constitution. So, there is a remedy under Article 226 against every tribunal's order. So, what will happen? The moment a tribunal decides, somebody will file a petition in the High Court, under Article 226, and that will take a number of years. You know the pendancy. I am only answering the question of the Minister that he wanted to set up this procedure of tribunals and amend this Act because minute by minute will matter. I am only answering that question.

Now, in the High Courts, how many writ petitions are pending? In fact, the writ petitions pending, at least, in the Delhi High Court, are of 1970s and 1980s. How many years will that writ petition take? Thereafter, after that writ petition is decided, the matter will go to Supreme Court. So, by substituting the adjudicating power vested in the authority under the original Act, you have not helped in the expediting of settlement of disputes. In fact, by amending this Act, you have helped in delaying settlement of these disputes.

Sir, I have now dealt with three matters. Number one is constitution of the Tribunal, where I have said that you have destroyed the independence of the Tribunal by making it subordinate to the Government. Number two, with reference to its powers and functions; I have said that you have depleted the status of the authority, and number three, instead of expeditious disposal of disputes in this area, you have, in fact, catered to prolongation of disputes. So, Sir, why then did you amend this Bill? What was the purpose? I will tell you what the purpose was, and this is in public knowledge. You know it, I know it. The newspapers have been writing about it for several months now. The DoT was not happy with the previous authority which was functioning independently. Now, Sir, in regard to some matters with reference to the

TRAI, even the CAG cannot look into them. This is even more serious. So, why did you do it? It is because you wanted that the CAG should not look into certain areas. The other thing is that you do not want independent people. You talk about independence of the authority, but in your heart of hearts you never wanted it. Did you take any action of yours? I quite appreciate your sentiments because I agree with your sentiments. We want a transparent authority. We want an independent authority. We want a strong authority. You say so publicly, and you have been saying so for a long time, but your actions belie your words. The time has come when you should rise above petty politics. If you truly want an authority to be independent, if you truly want an authority to be transparent, then put your words into action. This Bill demonstrates that you have no intention of doing so. Thank you very much.

SHRI T.N. CHATURVEDI (Uttar Pradesh) : Sir, I rise to support the Telecom Regulatory Authority of India (Amendment) Bill, 2000 which was presented by the hon. Minister. I have listened with great interest to the elucidation of a number of sections by our learned friend, Shri Kapil Sibal. As usual, I happened to agree with him in parts, and disagree with him in parts. The conclusion, of course, is that the Government should consider, as and when it considers it appropriate, to further rationalise the Bill. Sir, the first thing I want to say is about the structure. The hon. Member has said that the TRAI has been denigrated; its authority has been reduced. I think it is the other way round. Probably, the effort has been made by the Government and I think it is for the Minister to make it clear. The Government has just tried to rationalise the structure, the institutional mechanism, and as Mr. Kapil Sibal has rightly said, many of the authorities get clogged if they have too many functions. That is why, they have said that there should be one function at the administrative level, by and large, the marginal administrative function. The other function relates to the legal rights of the individuals and the rights of the affected. That is why, I think it will not be correct to say or it may not conform to the facts to say that TRAI ceases to be autonomous, to be an independent authority.

Sir, it continues to be an autonomous and independent authority within the purview of the functions that have been delegated to it. I do remember reading in the Press that a number of disputes did arise, which Mr. Sibal very rightly mentioned. Even at that point of time, I had an occasion to mention that it was the most unfortunate situation. Therefore, probably, there

was some ambivalence, and there was some ambiguity. That is why, probably, the Government, after thinking over it, decided that there should be one level of Authority, that is the TRAI, and that it should have limited functions. Once limited functions are there and there are powers commensurate with those limited functions to discharge them adequately and effectively, we cannot say that its status has been reduced. The only point is that another structure, the Administrative Tribunal, has been added to it, which is a purely legal authority where, Mr. Sibal may sometimes take up cases on behalf of the Government and some other times on behalf of other parties.

I do share with him that there should be an Authority, which can ensure justice between citizens and the State or even among various other authorities. I certainly say that the way the Act has been framed, I do not think that the MTNL is virtually the DoT itself. I think we must distinguish between the Government as such and the MTNL, which works under it. Therefore, it will not be fair to equate the two and to consider that the MTNL will be a super power as compared to other service providers in this.

Sir, another thing that I want to mention and which was rightly mentioned by him, is about the Tribunal. He raised two points:

One, of course, is that the proceedings get dilatory, that there will be delay. I think the hon. Minister should certainly try to see this. I request him to see that the Tribunal functions well. If we take the argument of Mr. Sibal further, that will be making a case that all Tribunals should be abolished. Our friend, the Finance Minister, has set up quite a few Tribunals. The idea is that probably for much of the legal quibbling that takes place, there will be a more rationalised kind of approach to litigations through the Tribunals, whether it is the Administrative Tribunal or other Tribunals to deal with other specific matters. It is rather unfortunate. I concede your point. But then the remedy lies not in throwing the baby with the bath water but in looking into why the Tribunals are not functioning. Tribunals elsewhere, in other parts of the world, are functioning very well. Many of them have the common law system that we have in this country. Why should our Tribunals not work? With the kind of experience of judiciary that Shri Sibal has, he can contribute a good deal on this. I think, the Government has thought of a good innovation in the amended Bill, to have a separate Authority at a level where justice has to be ensured.

3.00 P.M.

Both of us have discussed this earlier, and we have mentioned it once or twice while discussing on Bills in the House. The tendency is that we must go to a High Court or the Supreme Court for everthing. This is certainly not a very happy situation. We have the highest regard for the high Courts and the Supreme Court, but the point that has been raised is that we have to approach a High Court or the Supreme Court every time for everything.

It probably reflects the kind of politics that we are having in this country and in this Parliament. It is a very unfortunate situation. We should not go on to accentuate that kind of a position. While having the highest regard for the judiciary, we should, as far as possible, try to immunise them from any kind of temptation, a reference to which has been made just now. All of us have a field of play. In the judiciary too, there are no super-men. They are also the same type of persons. I do not want to go into the things that could happen because all of us know what happened at the Delhi Railway station the other day, when a High Court Judge took a particular decision. I do not want to go into it. That kind of malfeasance is not acceptable. There are people in different walks of life, who are honest, knowledgeable and experts in their own field. We can pick them up and bring here. This is a fundamental question and we will have to decide on it. But I do not agree with Shri Sibal when he says that under the now amended Section 7, Members of the TRAI will be reduced to the level of Government servants. In accordance with the functions that have been allocated, there is nothing wrong in it because Government servants also enjoy the highest protection under the Constitution. All of them are not spineless, as if they will listen to orders on telephone either from the Minister's Office or from the D.O.T. But, so far as these officers are concerned, they should really be represented from a wide spectrum of subjects. They should have understanding of finance, audit and managerial skills. They should even be drawn from public and social life. Why should people taking up the people's cause not be appointed here?

Another thing which I do want to say in this connection is the following. It is true that their recommendatory functions and regulatory functions had come into question because of the earlier tussle and hustle. Therefore, in a way, it is better that this kind of a distinction is made in the new amended Bill. But, certainly, I would like to mention and draw the

attention of the hon. Minister, as has also been said by Mr. Sibal, that this attempt to circumscribe the powers of the C.A.G. is not acceptable. After all, the C.A.G. is an authority. It does go to the Supreme Court, the High Courts and so on. Everybody knows that our Constitution envisages a harmonious functioning of the various Constitutional authorities. They understand where the stage of their authority begins and where it stops, but here in the case of this authority there are only three items where it can function. It is very unfortunate. Do you expect the C.A.G. to look into their office expenses only? I am referring to this because I have read in the papers that even while filing their T.A. bills, the Members of the T.R.A.I. do not adhere to the rules. Do you want the C.A.G.'s audit to be limited only to that ? If that is so, that is trivialisation of the significance of the Constutional audit as it exists today.

So, I think that this is a matter which needs a serious thought. In this connection, I would only like to mention that there was very often some tussle. There have been many other Ministries, there have been many Departments, from time to time, who have refused to part with particular documents. So far as this country's Constitution is concerned, the CAG does not have any punitive authority. In fact, in many other countries the CAG does have authority. But then he is your watch-dog. The Public Accounts Committee discusses his reports. Many a time they are discussed, or, at least, they are referred to in the House for the simple reason that they are based on facts which are supplied by the Government. They are basic Government documents. That is why there is an element of sanctity and authenticity attached to them. There may be some wrong or erring or something like that. I think the Minister's attempt is to rationalise the whole system and get it out of the morass into which the whole thing has landed itself, he should also consider some of the points made by Mr. Kapil Sibal. In this country of one billion population, we could not get persons from the university or from the engineering faculty, when there is a multi-disciplinary approach. Many of the officers and many of the officials in the Government also hold law degrees. As I said earlier, घर-घर मिट्टी के चूल्हे होते हैं . All of us have the feet of clay. Now this is a kind of reposing faith. Sometimes, this gives an exhilrating notion to the individuals, not to the institution. All of us in the House have the highest regard for the judiciary. But I think this is a matter which the Government should seriously ponder over, instead of putting too much burden on the judiciary. As Mr. Kapil Sibal said, somebody will be trying to seek some favours, etc. Why should we have that kind of a thing? In

particular cases, unless it is absolutely essential, a person with a fair amount of long judicial experience is called for.

Mr. Vice-Chairman, having made these remarks, I thank you for having given me an opportunity to speak on this Bill. I support the Bill.

SHRI NILOTPAL BASU (West Bengal): Mr. Vice-Chairman, Sir, it is with a lot of anguish that I rise to speak on the Telecom Regulatory Authority of India (Amendment) Bill, 2000 because this is a very important Bill. In the post-1991 economic reform process, the Telecom Regulatory Authority was the first statutory authority that was created by Parliament. I think for the service industry, for the user industry, the experience of the functioning of the Telecom Regulatory Authority would be very important. In sofar as influencing our legislation, covering the entire gamut of service industry and user industry, I do not know whether our Minister is happy. But I will have to speak with anguish because the Minister, in his opening remarks, had talked about the background of the TRAI and about the changes that were taking place in the telecom sector. I think it is farther from the truth. He has pointed out that the number of telephone connections given in the last three years is almost 50 per cent of the total number of telephone connections given in the whole period preceding that. He has attributed the phenomenal growth of the telecom sector to the opening of this sector.

Sir, I think a Minister should not mislead the House. Therefore, in all humility, I ask the Minister to give out the figures, while he replies, as to what the figures are of the investment coming from the private industry in the growth of the sector. I would also like to give him figures to demonstrate what has been the additionality in terms of commissioning of lines which can be attributed to the activities of the private industry. I think the figures themselves will reveal where the country stands and where we stand. Unfortunately, Sir, the whole process of opening up of the telecom sector is finding itself in the midst of a logjam, not because private sector industries had a certain perception, but because there was not enough investor confidence. A presumption was made in the opening up of the sector that just by opening up, there will be the opening up of the flood-gates and thousands of crores of rupees of investment will come in the infrastructure sector of India. That is not a fact. I would quote the figures of the World Investment Report by the UNCTAD in 1998. What does the report say? In 1994, of the total investment of global FDI, 64 per cent was for mergers and acquisitions,

hostile takeovers of companies and money which played in the share market, in the secondary market. By 1998, the proportion of mergers and acquisitions which accounted for global FDI went up to as high as 82 per cent. So, a developing country, just by opening up the sector, cannot induce, cannot attract, private investment for the growth of infrastructure. It is a cold, hard, fact which cannot be denied on the basis of the statistics available globally and also available in the country. You have told us, you are claiming, that by the opening up, this growth has taken place in the telecom sector. It is not a fact. What is the number of direct exchange lines commissioned by the DoT and what is the number of direct exchange lines commissioned by the other private operators? Please tell us that. What is the investment made by the DoT, by the MTNL and by the other public sector companies where the Government has the ownership and what is the investment made by all these private companies taken together? The facts will speak for themselves. Therefore, we have no problems in debating how far independent the regulator is. We have no problems in discussing how we can speed up the process. But the fact is that the debate must be held dispassionately, objectively. If it is not held in that mood, then, of course, we feel anguished. It is a fact that this great institution of Parliament has innovated and renovated itself by evolving the system of Standing Committees. This was such an important Bill. In this Bill, we are also examining the experience of the first regulator. There lies the importance. How will the Telecom Regulatory Authority function and what is our quality of legislation? That will be tested in terms of the experience. And, on the basis of that, the whole Parliament will exercise itself to make a qualitatively better legislation. In improving the quality of legislation, Sir, you will agree with me that the Standing Committee method, the Standing Committee system, has been a great innovation. It improves the quality of legislation.

Now, while the Standing Committee as an institution, as an improvement of our Parliamentary system, is available to us on such a critical Bill, on a Bill of such a historical nature, where we are examining the functioning of the Telecom Regulatory Authority for the last three years, why should we deny ourselves the opportunity of the Bill being processed through the Standing Committee? The Minister is aware that the Standing Committee was seized of the matter. They had called the witnesses, they were taking evidences. But the Government thought it fit to go in for the Ordinance on the 24th January, without allowing the Standing Committee to come out with

a report and place it on the Table of the House. If the discussion had taken place in the Standing Committee, the Parliament itself would have been benefited by the recommendations of that particular Standing Committee. Sir, I consider this with a sense of anguish. Sir, the hon. Minister was taunting me that I always speak with a note of anguish. But, Sir, I put this question to every Member of this House. When we have evolved a system to improve our own institution, our own functioning, and we deny ourselves this opportunity of using this innovation, this new instrument, shall we be happy or shall we be anguished? I pose this question to the hon. Minister. I think it is unbecoming of him to taunt me and say as to why I speak with a sense of anguish.

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS (SHRI TAPAN SIKDAR) : He was not taunting you. He was praising you.

श्री राम विलास पासवान : आप इस समय कितना बढ़िया बोल रहे हैं।

श्री नीलोत्पल बसु: क्योंकि मुझे यह जस्टीफाय हो रहा है कि आप उस हथियार का हनन कर रहे हैं जिस हथियार को हमने औजार के तौर पर इस्तेमाल करने के लिए पूरी संसद की ओर से बनाया है ताकि हमारी विधायिका को गुणवत्ता मिले और वह और उत्कृष्ट हो सके। आप इस सब का हनन कर रहे हैं तो उसमें दुखी होने का कारण नहीं है क्या?

So, Sir, these are the kind of things where there are different views. At times, there are divergent views. But these are issues where we have to try and evolve a consensus. I agree with many points which have been raised by my hon. friend, Shri Kapil Sibal. But I do not share some of the perceptions. If you take the functioning of the TRAI, I understand that the Government was facing some problem, and I do not go by those ideas which came in the Press that because of the fight between the DoT and the TRAI, whatever the TRAI was saying on those points, was correct. I do not agree with that perception. The hon. Minister, while moving the Bill made a very good point that our tele- density is very low. It is only 2.54. It was 0.9 at the time of introduction of the new telecom policy in 1995. This is a simple fact demonstrated by the experience of development all over the world that if you want that the tele density should go up, you need cross subsidy and you cannot have cross subsidy unless you have the monopoly situation, whether it is private monopoly or whether it is public monopoly. There has to be monopoly to be able to allow certain cross subsidisation. It is the

subsidisation of the residential consumers by the commercial users of the utility that allows the expansion of the network, the enhancement in tele density. In fact, the Telecommunications Union, which is the U.N. Chapter in so far as telecommunications is concerned, have worked out a mathematical formula according to which tele density is a function of minimum excess fee to per capita GDP ratio. So, as compared to per capita GDP, if the minimum excess fee is not at a relatively low level, tele density cannot go up.

The difficulty in the functioning of the earlier TRAI was that their entire recommendation about tariff fixation was going contrary to international experience. They had increased the tariff for the smallest users. They went on slashing the tariff rates for the biggest corporate users. Sir, that was counter-productive to growth. Therefore, I agree with Mr. Kapil Sibal that we need independence, but I beg to differ where this Bill has failed. It has curtailed the independence of the TRAI, but it has not invested the TRAI with an element of accountability which has to be an important component of a regulator. Sir, if you go through the experience of regulators in free market economies, in developed countries, you will find that they have independent regulators, but with a component of accountability. Their accountability will be quantified and it will be ensured that that element of accountability conforms to the larger national and social objectives with which they have to operate in any situation. More so, even in a developing country like ours, where is the element of acountability? We have not developed that. The fight between the DoT and the TRAI is this. The DoT was questioning the financing of the telecom sector. So far as the DoT is concerned, they cannot deny that in a backward area, they will not start operating. What happened when the bidding was opened after the introduction of the 1995 Policy? We had seen that for 13 telecom circles in the country, including Kashmir and the North-East, there were no private takers; there were no private bidders. But can the DoT and the Government take a stand that they will not go there because these are backward areas, there will be no commercial returns? They have to go. Can there be a level-playing field between a public operator and a private operator? Is it possible? Mr. Sibal can very eloquently argue; I have great respect for his opinion. But can he tell us whether we are not talking of a hypothetical situation when we talk of a level-playing field in this country? There are areas; there will be areas. We are not discussing cellular; I will come to that later on. We are not talking of our premier service. We are talking of our basic utility service. The Prime Minister is making tall statements on the IT sector. Can there be any IT growth in this country if our

communication system does not survive? You tell me what IT is. IT is not an addition of new goods and services. IT only enhances the portfolio of goods and services that you already have. Without a good, strong and efficient communication backbone, your IT sector cannot grow. Michael Dattoozos can come and give you lectures that by 2010, India will be exporting 80 billion dollars worth of IT-stuff, but that cannot happen, that will not happen, without a communication set-up. That is very vital.

Where will the Regulator lay emphasis on? Will it be on competition, on the growth of the sector, or, on the growth of the public telecom services? This amendment does not address that basic question. You see, competition cannot be invented; it evolves. Now, Mr. Minister, what is the situation? You brought a great package. The less we talk about that migration package, the better. But it has prompted a process of emergence of certain private monopolies in the cellular telecom sector. We have read reports about it. So, don't treat us as ignorants. It is a fact that companies which the Government of India had declared as sick, are on a buying spree. The companies that were declared sick, are making a killing in the stock-market. And the companies which were not sick, which were paying their dues and which had applied to the Government to give them certain packages, are also growing. They are buying all those companies which are making a kind of distress sale. As a result of that package, their stock value has also gone up. Therefore, what is the role of the Regulator? Where will the Regulator lay stress on? Yes, the private sector may have certain very legitimate concerns. We are talking of the independence and strengthening of the TRAI. When you went ahead with the telecom migration package, what happened to the TRAI? You did not wait for the recommendation of the TRAI. You announced an interim revenue-sharing. These experiences are also there. So, Sir, my feeling is this that the Government is speaking in a double voice. It is double speaking of the first order. I agree with Shri Kapil Sibalji. They do not have time to discuss it in the Standing Committee. He was referring to the IT convergence sub-group. I don't want to speak anything about any individual. Political appointees in the Prime Minister's Office are also a part of this sub-group. Are we to accept this? Forget for a moment that we belong to different political parties. A political appointee in the Prime Minister's Office can exercise the option of discussing what is best for this country. But the Parliament which has, in its wisdom, created the Standing Committee, cannot discuss this! The changes

are so fast. Whatever they have said, he has appealed to us, and we have to support that. I think this is a very, very wrong thing. Therefore, with the kind of polity that we have in this country, we have to do something substantial in the national interest; otherwise, there is no other go. But, for the application of collective mind, I would very earnestly like to know, through you, Sir, from hon. Communications Minister as to what the problem is. Mr. Chaturvedi is a great friend of mine. We have been fellow-travellers on this telecom issue right from the Sukhram days. We were co-petitioners in the Supreme Court. So, he understands the subtilities and nuances of the kind of changes that are taking place. Sir, why to take out TRAI from the purview of the CAG on certain issues? I do criticise reforms on certain issues. But even from the standpoint of a reformer, no reform in this country can take place without transparency; without a public debate and without integration of diverse views. Sir, I speak this with a sense of conviction. After seeing what happened in the last 5 - 6 years in the telecom sector, can you tell me what growth has taken place?

You fight for the cause of Dalits. You were talking of certain development which had taken place in the last three years. You tell me, how many Dalits have been benefited by what is happening? That cannot be done by clipping the wings of the DoT, as Mr. Kapil Sibal wants it.

SHRI KAPIL SIBAL: I never said that I wanted it.

SHRI NILOTPAL BASU: You have to strenghten the DoT. The TRAI's independence has to be there. But, at the same time, an element of accountability, an element of probity in public life, has to be built into the TRAI. I don't want to make any adverse comments. But the clause, which is there, regarding the removal of TRAI members, subject to reference to the Supreme Court and subject to the finding whether they are having certain other arrangements to use their power, is bad. Perhaps, there were several occasions in the past when that particular provision of the principal Act could have been exercised and many facts would have come out. Chaturvediji was referring to the particular facts of T.A. and D.A. of some members. I also got a reply from the Government. We have seen the CAG's notings regarding 500 dollars drawn by Members as daily allowance. Now, these are very serious things. Therefore, with all earnestness, I ask the Minister, "What is the hurry?". The Government should not stand on the issue of prestige. You don't tell me the story, "by not legislating it today I am postponing the

legislation by three more months and a great catastrophe will overtake the telecom sector". I think nobody buys that kind of an argument. I, therefore, sincerely request you to refer it to the Standing Committee. We are having the debate. We can complete the debate. You can take your own time. You can refer it to the Standing Committee.

THE VICE-CHAIRMAN (SHRI SANATAN BISI): You please conclude.

SHRI NILOTPAL BASU: I will take just two or three minutes, Sir.

Another very fundamental idea that should be incorporated in the Bill is the Office of the Public Interest Council as part of the TRAI. There should be an independent council, particularly, to protect the rights of small users. I have watched the functioning of the TRAI. The most disturbing, the most upsetting feature of its functioning is its utter contempt for, and its utter ignorance of, the issues and the problems of small consumers. We want to improve the quality of service. The TRAI was so generous in its recommendations on so many other things relating to the telecome sector; whereas there was not a single recommendation which concerns the quality of service, which is the greatest concern of the consumers today. Even in a monopoly situation we should have an independent regulator to see that there is quality of service. You are talking about the villages. No village telephone will be added. You come out with the figures of growth in the urban and village areas. What has been the percentage of growth in the villages? The percentage of growth in the villages has been negative compared to the development of telecom services in the urban areas. Therefore, the creation of an Office of the Independent Public Interest Council, with sufficient powers and with certain safeguards, within the main body of TRAI is very necessary. In a consumer society the big people have the wherewithal to take care of their interests. But if there is no in-built provision within the regulator itself for securing and safeguarding the interests of the small users, it will be a great disservice to the national and social objectives which you are espousing in the Statement of Objects and Reasons of the Bill.

Sir, I do not want to make it acrimonious. Let the Government exercise its mind. There is no sense of victory or defeat in this matter. Let us go back to the Standing Committee. Let us have a proper review because this is very crucial. Finally, I would say that the way in which we have evolved the telecom regulator, is going to influence the functioning of so many other parameters which will come into play in the entire gamut of this industry.

Therefore, Sir, the critical importance of this Bill, at this historical juncture, can never be overstated. Though I was speaking with anguish, I was not acrimonious. We are very constructive. We sincerely want that let there be a dialogue; let there be a discussion with the persons who followed this sector for some time. We would also like to strengthen the quality of legislation and only the Standing Committee process can help you in giving that scope. So, I hope the Government will positively respond to our earnest appeal. Thank you.

SHRI C. RAMACHANDRAIAH (Andhra Pradesh): Sir, I am rather constrained to concur with the views expressed by Mr. Sibal. Sir, he referred to the objectives of the Bill. I would say that the very objective of this Bill is to strengthen the regulatory authority. Sir, any provision you take, nowhere, an endeavour has been made to strengthen the Regulatory Authority. Sir, if the Government has got a different meaning for " independence" and "autonomy" then I request the Government to distribute that dictionary to the hon. Members so that we can also re-learn the meanings of these words.

THE VICE-CHAIRMAN (SHRI SANATAN BISI): Independent and autonomous?

SHRI C. RAMACHANDRAIAH : Yes, Sir. I have got a doubt whether there is a necessity to have a Regulatory Authority in this connection.

श्री संघ प्रिय गौतम (उत्तर प्रदेश): अगर कैरेक्टर नहीं है तो कितना ही आटोनोमस बना दीजिए। आपने क्या आज स्पेशल मेंशन हाई कोर्ट के जज के बारे में सुना था? We need character.

SHRI C. RAMACHANDRAIAH: Sir, this pertains to the services provided to the consumers. We are on the verge of liberalisation, globalisation. So, we have to improve the services which are being provided to the consumers. It requires a lot of investment. The President of India, while addressing the Joint Session of Parliament on 25th October, 1999, stated that the Telecom Regulatory Authority will be strengthened to increase the investors' confidence and to create a level - playing field. Sir, is this the way to create a level-playing field? Is this the way to subserve the interests of the DOT? Honestly, I would say that the Minister will have to make an introspection. Sir, consumers' interests have to be brought to the fore. Given the type of economic philosophy that is being preached in this country, there should be a competition to subserve the interests of the consumers. The

President of India himself has said that it requires a lot of investment. An estimate says that in the next five years, it will require some fifty billion dollars of investment, which neither the DOT nor the Government has. So, naturally, a consensus has to be created amongst the investors. I do not know how the Government is contemplating to create a consensus amongst the investors, with this truncated regulatory authority.

Sir, Shri Kumaramangalam is not here. Had he read the Bill and had he heard these arguments, he would have made an attempt to make the Electricity Regulatory Authority more autonomous. But he is not here. I would like to explain how the autonomy has been eroded. The Government has got control over salaries and perquisites of the members. Tariff-fixing powers have been taken away. It is a little bit vague. We would like to know whether the Government still wants to keep these powers with the Regulatory Authority or wants to take them away. It has been worded very conveniently. Adjudicatory powers have been taken away. Nowhere in the world Regulatory Authorities have been deprived of these powers. Why is the Government thinking that the Regulatory Authority should not be an adjudicator? Why should it have a separate adjudicator? Whom do they want to satisfy? Is there any ideological edifice for diluting the autonomy of the Regulatory Authority? The mandatory role has been taken away and it has been made recommendatory. What is the purpose of the Telecom Regulatory Authority of India (Amendment) Bill? What purpose is it going to serve? Sir, revenues of DoT may be relevant but they are not totally material. The health of the industry is more important. Just to subserve the interest of the Department of Telecommunications don't try to kill the industry. The industry has to grow and you have to create a healthy competition. I don't concur with the views expressed by Shri Nilotpal Basu. The entire outlook of the economy has been changed. We are changing it. There is no meaning of talking about monopoly and duopoly. Every State is being subserved by two companies. Why can't there be more competition? After all, we are committed to protect the interests of the consumers. The Government has been proclaiming day in and day out that they are committed to the liberalization of the economy. Don't you think that it is against the spirit of liberalization and globalization? How will it inculcate confidence among the investors? How are we going to attract investments in this field? We cannot develop this industry unless more investments are attracted. I don't want to go into the intricacies and small aspects of it. I am going into

the very vital philosophy of the Government. Last time, when we posed some questions, the Minister tried to bulldoze us by giving a very big lecture which was totally irrelevant and which was not related to the questions which we had posed. Therefore, I would like to request the hon. Minister to be relevant in his replies. It has been established that with one stroke of pen the Government can demolish this Telecom Regulatory Authority. It is a very sorry state of affair that is going to prevail. With one stroke of pen they can demolish the Authority and change the members. They can change the service conditions of the members. I am not speaking out of anguish but I am constrained to concur with the views expressed by Shri Kapil Sibal. Therefore, I would like to request the Government and the hon. Minister to refer this Bill to a Committee so that it can be redrafted and we can inculcate the spirit of liberalization and globalization which you have been proclaiming all along.

So, this Bill is going totally against the very spirit of our policy. And, you take the example of the Electricity Regulatory Authority that has been promulgated in our State, Andhra Pradesh, - I can send a copy of it to the hon. Minister. It is a totally independent authority. And, as regards the TRAI, what are the powers that they have? What are the objectives which are going to be achieved? Neither can it fix prices, nor can it create competition amongst the investors, nor can it create a level-playing field. So, ultimately, what are the objectives which are sought to be achieved? In fact, the objectives which have been stated in this Bill are totally misleading and are totally inconsistent with the objectives which are sought to be achieved. Thank you, Sir.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Mr. Vice-Chairman, Sir, thank you for giving me an opportunity to say something on this Bill. From the arguments put forth in this august House, I find that some of my colleagues have suspected the very intention behind issuing this Ordinance. I do not suspect the intention of the Government in issuing this Ordinance. But I want to say something on the strategy that the Government has adopted through this Bill. In the Statement of Objects and Reasons, the Government has stated, and I quote: "The President, while addressing the Joint Session of Parliament on 25th October, 1999, had stated that the Telecom Regulatory Authority of India will be strengthened to increase investors' confidence and create a level-playing field between public and private operators by making suitable amendments in the Telecom Regulatory

Authority of India Act, 1997." This is the crux of the issue. The question is whether the Bill is going to serve the purpose for which it has been brought about. Since Emergency, this Department has been beaten again and again. After Emergency, there was a ban on recruitment in the Telecom Department. When the ban came, people who were appointed in the Telecom Department were called the RTPs. When Shri Unnikrishnan was the Minister of Communications, I had raised this issue, and he obliged to take in the people who were appointed as RTPs -- this is more or less like the ten-a-one posts we had in Tamil Nadu -- and they were taken into the Department. But the service rendered as RTPs was not included. After that, the Department was bifurcated and the Posts and Telecom were made separate divisions. Further, last year, the telecom itself was separated into two divisions; one was DTS and another was the Telecom Commission. Now, after this separation in 1999, this Bill has become very important. There are nearly 25,400 telephone exchanges and more than 226 lakh working connections with the Telephone Department. These are the figures as on 30th September, 1999. Sir, I do not want to go into the minor issues like, say, whether there need to be six members or four members, whether the service conditions would be stipulated for a period of five years or three years or whether after demitting office, they can join commercial employment after a gap of one year or two years and so on. These are not all that important to be discussed. Now, with the adoption of this policy of shifting from licence to revenue-sharing arrangement, that is, after 15th August, 1999, you are able to collect Rs.168 crores from the service-providers. At that time, it was told that by 30th January this year, the Government would be able to collect Rs.1,580 crores from the service-providers.

Sir, I want to know whether this target has been achieved. There are some questions to be raised before we come to a conclusion. Sir, previously TRAI had got recommendatory and judicial powers. Now, the judicial powers have been segregated and placed in a separate tribunal, the Appellate Tribunal. Previously, people could go to the High court. Now they have to approach the Supreme Court Ho. Member, Shri Kapil Sibal has said that to go to the tribunal one has to go to the High Court and through the High Court, one has to go to the Supreme Court. Previously there was no jurisdiction for the Government. As a licensee they did not have any jurisdiction. Now they have to go in such a way that Government should get recommendations from TRAI but those recommendations are not binding on them. They must get the

recommendations. Hon. Member, Shri Kapil Sibal mentioned sub-sections (2) and (3) Section 7 have given some protection to the Members of TRAI. Judicial protection have been taken away from there. Now it has to be decided by the executive. What I feel and what suspicion arose among the members there is this. In case a member contradicts the Government, will he be dealt with the the objective facts or by the subjective will of the Government? That is the suspicion which arose among the members. That has to be dealt with because conveniently it has been taken out. But, at the same time the hon. Member says about adjudication process that once it goes to the tribunal and then to the High Court and then to the Supreme Court, then when are you going to finish this job? Suppose powers are given to the Supreme Court regarding members conduct the same thing will apply to this also. What I want to know from the hon. Minister is without affecting the inherent rights of a citizen, how are you going to give justice to the mebers of TRAI? How are you going to render justice to the members? That is the question for which an answer is awaiting. Sir, apart from that, the Appellate Tribunal itself, which is between the licensor and the licensee, can adjudicate between the bulk of consumers and service providers, can adjudicate between the Government and others. These are the powers we have given to the Appellate Tribunal. The Appellate Tribunal has been given all these powers but the matter is not going to be settled there. What I feel is when you are giving permission to go in for further judicial process, it should be time-bound. We are a democratic polity. How are we going to put it in a time manner? We have to concentrate on that. If there is no time-bound limit, it will take a quinquennial or a decade. When it is so, people will forget the origin of the case. That will be the situation which will arise. Sir, another point is the decision taken by TRAI regarding tariff. TRAI can decide about tariff as well as inter connection rates. Once the tariff is fixed by TRAI, it can be scrutinised by the Comptroller and Auditor-General, the CAG. I feel to the best of my knowledge, that power has been taken away from this Bill. If it is so, then the CAG does not have any powers to scrutinise the tariff imposed by TRAI.

This is the question. When it is so, the reply that the hon. Minister can give, through this House, to the nation is that there is a possibility of making an appeal to the tribunal against the decision taken by TRAI. I feel every decision taken regarding tariff cannot be taken to the appellate tribunal. I also feel that matters scrutinised by CAG automatically will not be scrutinised by the tribunal. The tribunal won't take up an issue *suo motu.*

Also, the way in which the CAG scrutinises the tariff issue will be totally different from the way in which the tribunal will approach this issue. The tribunal will approach everything within the parameters of rules and regulations framed by the Government. But, at the same time, the CAG will go into the beginning of the issue and it will find out exactly where the mistake lies, cull it out and present it before the public. Therefore, if CAG does not have the power to scrutinise the TRAI, I strongly feel it should be re-invested with these powers.

Then, you mentioned about the level-playing field. The other day I did raise this issue in the Question Hour, but you mentioned that actually TRAI was fixing the tariff and we could not do anything. Sir, it is the Government which is providing this service, the DTS. Actually, the Government is acting in two ways - one, it is providing service to the public and, two, the Government is working as a separate entity. So, it is affected, so far as the DTS is concerned. The question is whether it is affected. I feel it is affected. How is it affected? It is affected by the regulations made by the TRAI. Sir, if a person makes a call from a basic telephone to a cell phone, out of the amount realised for that particular call, the DoT has to shell out some percentage to the cellular telephone service provider. Similarly, when a person makes a call from the cellular phone to the basic phone, the cellular phone service provider also has to make some payment to the DoT. But what I understand is that the percentages being paid by each one of these are not the same. I would like to have a categorical reply from the hon. Minister. What exactly is the percentage that the DoT has to shell out to the cellular phone company, in case the call has been received on the basic phone and what is the percentage the cellular service provider will have to shell out *vice-versa*. If there is a difference and the DTS has to pay more, then, I feel the Department of Telecom will lose huge sums of money because they have more than 25,000 telephone exchanges and nearly two hundred-and-twenty two lakh connecting lines. The cellular service isn't like that. Therefore, naturally, more calls will be made from basic phones to cellular phones and the DTS will be badly affected. So, it has to be looked into.

Then, in the National Telecom Policy of 1994, it was said that in urban areas for every 500 persons there will be a public call service and in rural areas each village will be provided with a public call service. Now, we have more than 6.07 lakh villages in India. Out of these, only 3.43 lakh villages have been provided with public telephones. Nearly fifty per cent of the villages in India are yet to be provided this service even after fifty years of

4.00 P.M.

independence. More than three lakh villages are to be provided with public telephones. You were mentioning about the level-playing field. I would like to know from the hon. Minister whether these private operators are also going to be bound by the decision taken in this regard by the Government. You said earlier that ten per cent of the service will be provided in the villages by the private service providers. Are they adhering to it? If not, what is the decision being taken by the Government? There is another point that I wanted to make.

SHRI SANGH PRIYA GAUTAM : You want telephone; not bread, not water, not house or anything.

SHRI S. VIDUTHALAI VIRUMBI : As far as your request is concerned, I would say, cutting across party lines, everybody is actually for that.

Sir, I feel that though the intention behind this particular Bill is not bad, the strategy that you want to adopt through this Bill is not good. I don't know whether it is going to serve the purpose. I hope the hon. Minister would clear my doubts during the course of his reply. Then, it would become clear to the entire nation. With these words, I conclude.

SHRI DRUPAD BORGOHAIN (Assam) : Sir, I rise here to say something on the TRAI (Amendment) Bill. As said by the earlier speakers, I also think that we should not pass the Bill in its present form. Some more discussion should be held on this Bill. The Members should be given enough opportunity to discuss this Bill in the Standing Committee. Then, perhaps, the Bill will be improved. If the Bill is improved, then it will be more effective. I think the functioning of the Telecommunication Department is not satisfactory. It is not functioning up to the mark. The service provided is not good. The service provided to the consumers should be good enough. But the service provided by this Department both in cities as well as in villages is not up to the mark; particularly the villages suffer more. The policy of the Government is such that, till today, we are not able to provide telephones to all our villages. During these days of liberalisation and globalisation, the Government is trying to invite private companies in every field. Perhaps, it is going to be done in this field also. As far as the cellular telephones are concerned, they are helpful to the cities, but these are not helpful to villages because most of our villagers can't afford it.

Secondly, I think the telecom services should be extended to the villages as quickly as possible. But that is not the case now. I feel that the North-Eastern Region is lagging far behind, as far as telecom services are concerned. I request the hon. Minister to look into this matter. I also request the Minister that the Bill should be revised. I think, if it is sent to the Standing Committee, perhaps, it would be better. That is my viewpoint.

THE VICE-CHAIRMAN (SHRI SANATAN BISI): Shri Ramoowalia is absent. I call the Minister now.

श्री रामविलास पासवान: सभापति जी, मैं सर्वप्रथम अपने सभी माननीय सदस्यों को जिन्होंने इस डिबेट में भाग लिया है, बहुत-बहुत धन्यवाद देना चाहता हूं, मुबारकबाद देना चाहता हूं।

निश्चित रूप से यह जो डिसकशन हुआ है उससे सरकार को भी बहुत सारे नये-नये प्वाइंट्स मिले हैं। माननीय सदस्यों ने जितनी बातें रखी हैं वे अभी तो संभव नहीं हैं। लेकिन मैं समझता हूं कि हर माननीय सदस्य ने कोशिश की है कि दलगत भावना से ऊपर उठकर जो देश के हित में, इंडस्ट्री के हित में अच्छा काम हो वह किया जाए। रामूवालिया जी नहीं हैं। उन्होंने डिसएप्रूवल का प्रस्ताव दिया था। सिब्बल साहब ने काफी विचार रखे हैं और यह जो हमें मंत्रालय मिला है उसमें हम तो सिब्बल साहब के ही पदचिन्हों पर चल रहे हैं। इसमें आपने जिस पौधे को लगाया है हम तो उसी पौधे को सींच रहे हैं। आप क्यों उसको काटने का काम कर रहे हैं। शुरुआत के इसके आथर मनमोहन सिंह जी यहां बैठे हुए हैं। इसलिए मैं कह रहा था कि जितना टेलीफोन कनेक्शन्स का अचीवमेंट 47 साल में या 50 साल में हुआ है उतना ही 3 साल में हुआ है। मेरा कोई यह आंकड़ा नहीं था कि कितने प्रायवेट इंडस्ट्रीज वाले उसमें आए, कितने प्रायवेट आपरेटर्स ने किया, कितना हमने किया। लेकिन यह जो एक नयी नीति बनी उस नीति से निश्चित रूप से लाभ हुआ है, मैं सिर्फ यह कहना चाहता हूं।

आप यदि देखेंगे तो यह आज की घोषणा नहीं है। यह 1984 में जब कांग्रेस की सरकार थी उस समय के संचार मंत्री ने राष्ट्रीय संचार नीति बनायी जाएगी इसकी घोषणा की थी। फिर 1984 में सब्सक्राइबर्स एण्ड इक्विपमेंट्स मैनुफैक्चरिंग को निजी क्षेत्र के लिए खोला गया। एम.टी.एन.एल. की जो बात कही जा रही है वह एम.टी.एन.एल. 1986 में बना। वी.एस.एन.एल. जो है वह भी 1986 में बना। फिर 1991 में केंद्र में नई सरकार बनने के बाद न्यू इक्नामिक पालिसी, एन.ई.पी. पेश की गयी। इसका मुख्य उद्देश्य था - उसके उद्देश्यों में लिखा हुआ था - उदारीकरण, पूंजी निवेश को बढ़ावा देना तथा विदेशी पूंजी निवेश को बढ़ावा देना। ये तीनों चीजें थीं। उसके बाद फिर सेल्यूलर पेजिंग आदि

सेवाएं खोली गयीं। 1994 में नेशनल टेलीकाम पालिसी की घोषणा की गयी और उसके बाद बेसिक टेलीफोनी खोली गयी तथा 1994 की नीति को ध्यान में रखते हुए 1999 की नीति की घोषणा की गयी। इसलिए इसमें एक कन्सिसटेंसी रही है। यह नहीं है कि कोई एकाएक सरकार ने नयी चीज ला करके थोपने का काम किया है। यह एक सतत प्रक्रिया है। उसमें सुधार चल रहा है। टेक्नालाजी में सुधार चल रहा है। जब हम कोई बात कहते हैं टेक्नालाजी की तो कल की जो टेक्नालाजी थी वह आज की टेक्नालाजी नहीं है, जो आज की टेक्नालाजी है वह कल की टेक्नालाजी नहीं होगी। इसलिए यह एक सतत विकास की प्रक्रिया है और उस विकास की प्रक्रिया के दौर से हम लोग गुजर रहे हैं।

सिब्बल साहब ने कहा है और बहुत ही सही उन्होंने कुछ-एक बातें कही हैं। वे एडवोकेट भी हैं। वे गलत बात भी कहते हैं तो सही ढंग से कहते हैं। उन्होंने कहा कि ट्राई को कमजोर किया गया है। हम भी इस बात को मानते हैं। इस मामले में हम कहां आपसे दो राय रखते हैं? हमने रेगूलेटर को मजबूत करने का काम किया है। मैं ट्राई में नहीं जाता हूं कि ट्राई में हमने क्या किया। लेकिन कुल मिलाकर आप मानेंगे कि हमने रेगूलेटर को मजबूत करने का काम किया है। हाऊ टु रेगूलेट इट, जिसके संबंध में चतुर्वेदी साहब कह रहे थे ...**(व्यवधान)** अच्छा वे वहां बैठे हुए हैं। ठीक है। तो हमने जरूर उसको मजबूत करने का काम किया है। उसमें दो भाग थे। मैंने उस दिन भी कहा था। सिब्बल साहब बहुत बढ़िया वकील हो सकते हैं। लेकिन अब इन्हीं को जज की कुर्सी पर बैठा दिया जाए, जो जिस केस की वकालत करते हैं, तो कोई जरूरी नहीं है कि उस केस के पक्ष में फैसला सुनायेंगे। एक ही बॉडी के पास में दो काम थे। ट्राई जो है वह रेगुलेशन का भी काम कर रहा था, एडजुडिकेशन का भी काम कर रहा था, रेकमेंडेशन का भी काम कर रहा था। अब हमने सिर्फ उसको इतना ही कर दिया है कि उसको दो भागों में अलग-अलग कर दिया है । एक के जिम्मे हमने रेकमेंडेटरी का, रेगुलेशन का काम रखा है, टैरिफ के मामले का काम दिया है और दूसरे को हमने एडजुडिकेशन का काम दिया है। एडजुडिकेशन का काम जिसको दिया है उसमें भी हमने उसको पूर्ण स्वतंत्रता दी है, और टैरिफ के मामले में भी कहीं हमने इंटरफीरेंस नहीं किया है । सिब्बल साहब रिवोकेशन ऑफ् लाइसेंस के संबंध में कह रहे थे। सिब्बल साहब हम समझते हैं, हमने रात भर जाग करके लिखा है आपके डर से, क्योंकि हम जानते हैं कि हमको वकील को भी फेस करना पड़ता है। इसलिए हमने इसमें देखा है। इसमें तो जो रिवोकेशन ऑफ् लाइसेंस का मामला है, वह रेकमेंडेटरी फंक्शन में ही है। आपने कहा था कि इसको रेकमेंडेटरी से हटा लिया गया है।...**(व्यवधान)** आपने कहा था कि इसको हटा लिया गया है। ...**(व्यवधान)**

श्री कपिल सिब्बल : रेकमेंडेटरी नहीं कहा, ओरिजनल एक्ट में उनको पॉवर थी जो गवर्नमेंट को मानना पड़ता है, अब रेकमेंडेटरी में ला दिया है।

श्री राम विलास पासवान : जी। उसमें कोई चेन्ज नहीं है। उसी तरीके से हटाने की प्रक्रिया है जो जजेज़ के मामले में है। आपने दोनों चीज़ें कहा, हमने दोनों चीज़ों को ध्यान में रखा है। जब हमने ट्रिब्यूनल बनाया है तो ट्रिब्यूनल के जज के लिए हमने कहा है कि यह जरूरी है कि वह सुप्रीम कोर्ट के जज होंगे या रिटायर्ड जज होंगे या हाई कोर्ट के चीफ जस्टिस होंगे या रिटायर्ड चीफ जस्टिस होंगे। लेकिन उनके साथ जो हमने मैंबर्स को जोड़ा है उस मैंबर का हमने जुडीशियल बैकग्राउंड नहीं रखा है, बल्कि उस मैंबर को हमने स्पेशलाइज्ड रखा है। इसलिए दोनों का समीकरण करने का काम किया गया है। उसके अधिकार में कहीं भी, चूंकि वे जजेज़ रहे हैं, हाई कोर्ट के चीफ जस्टिस रहे हैं, सुप्रीम कोर्ट के जज रहे हैं, इसलिए उनकी किसी भी चीज में हमने कटौती नहीं की है। आपकी जो दूसरी भावना है, जिसके बारे में आपने कहा कि क्या जज ही सब चीज़ों के लिए फिट हैं, दूसरे लोग फिट नहीं हैं, तो आपकी भावना का आदर करते हुए हमने ट्राई का चेयरमैन केवल जज नहीं बनाया है। ऐसा नहीं है कि आपकी भावना को हम जानते नहीं थे। हम लोग जानते थे कि आपके मन में क्या बातें हैं । इसलिए हमने ट्राई के जज के लिए जो जुडीशियल बैकग्राउंड है या चीफ जस्टिस हो या जो पहले का था, उसको हमने नहीं रखा, लेकिन ट्रिब्यूनल का जो जज है, चेयरमैन है, उस ट्रिब्यूनल के चेयरमैन के लिए हमने ये सारी की सारी चीज़ें रखी हैं। उसी तरीके आपने कहा है कि पॉवर हैज़ बीन टेकन आउट । यॅस, पॉवर हैज़ बीन टेकन आउट, लेकिन पॉवर टेकन आउट करके हमने अपने पास नहीं रखी है, वह पॉवर ले करके हमने कहीं दे दी है। ट्राई का पॉवर ले करके हमने ट्रिब्यूनल को दे दिया। उसी तरीके से यदि आप डिले का देखेंगे तो डिले के मामले में भी हमने देखा है कि डिस्प्यूट सैटलमेंट में जो धारा 14-ए(6) है उसमें 30 दिन के अंदर अपील दायर करना होगा, 90 दिन के अंदर केस का निपटारा करना होगा और उसके बाद सभी पैंडिंग केसेज़ जो हैं वे ट्रिब्यूनल में ट्रांसफर हो जायेंगे और उसके डिले को रोकने के लिए सीधे सुप्रीम कोर्ट में अपील का प्रावधान किया गया है। मैं समझता हूं कि पार्लियामेंटरी डेमोक्रेसी में कोई किसी के सामने भी किसी की हत्या करता है तो भी कोर्ट में जा करके कुछ समय तो लग ही जाता है । अब हमारा जो सिस्टम है उस सिस्टम में ऐसा तो है नहीं कि प्रोसीज़र को फालो नहीं किया जाए। प्रोसीजर को फालो करना तो जरूरी है और हर आदमी को बैनिफिट ऑफ् डाउट और जो क्रिमिनल से भी क्रिमिनल है, उसको भी अपना पक्ष रखने का अधिकार होता है। उसको दृष्टिकोण में रखते हुए मैं समझता हूं कि यह जो 90 दिन का समय दिया गया है यह मैक्सीमम हो सकता है,

मिनिमम नहीं। मैक्सीमम हो सकता है कि 90 दिन के अंदर उनको जजमेंट देना होगा और यदि वे जजमेंट नहीं देते हैं तो उनको कारण बताना होगा। उसी तरीके से पहली चीज़ में हम लोगों ने ट्राई को पॉवर दिया है, और अनिवार्य कर दिया कि सरकार को 60 दिन के अंदर उनको रेकमेंडेशन देनी होगी। अगर क्लैरीफिकेशन देना हो तो सरकार को भी सात दिन के अंदर क्लैरीफिकेशन देना होगा। उन की रिकमंडेशन आने के बाद यदि वह सरकार को अस्वीकार्य है या सरकार उस में मोडीफिकेशंस चाहती है तो सरकार को 15 दिन के अंदर प्रस्ताव देना होगा और उस के पास आने के बाद फिर सरकार निर्णय लेगी । इसलिए महोदय, जितना भी सरकार से बन सका है, इसे बैलेंस कर के चलने का काम किया है। आप ने ट्रिब्युनल के चैयरमेन की बात कही, मैं ने बतलाया कि जो सेक्शन 14 सी(बी) के तहत सी.ए.जी. का एक मामला आया है और इस मामले में "Under the earlier provision, none of the recommendations or the regulatory functions of the TRAI came within the audit purview. Now, the recommendatory functions are covered under the audit purview." अब रिकमंडेशन की बात पहले भी थी कि अगर ऑडिट का मामला हो, रेवेन्यू का मामला हो - उसमें उनको पूरा अधिकार दिया गया है। वह सिर्फ रेगुलेटरी के मामले में, टैरिफ और डायरेक्शन के मामले में नहीं दिया गया है। आप देखेंगे कि रिकमंडेशन के मामले में हमारा बिल सायलेंट है। आखिर सरकार के ऊपर कई आरोप लगते रहते हैं कि सरकार जब चाहे किसी चीज के दाम बढ़ा देती है, सरकार को पब्लिक इंटरेस्ट की चिंता नहीं है। महोदय, पब्लिक इंटरेस्ट के लिए ही रेगुलेटर बनाया गया है। वह एक इंडपेंडेंट बॉडी हो जिसे कंज्यूमर्स का भी ध्यान हो। हम ने जहां नेशनल इंटिग्रेशन की बात कही है, उस में हम ने टैरिफ को भी जोड़ने का काम किया है। उस के साथ ही हम ने फॉरेन रिलेशंस को भी जोड़ने का काम किया है। हम ने दोनों को मिलाकर रखा है।

सभापति जी, जितना हम से बन सकता है, हम उस के संबंध में प्रयास कर रहे हैं। एम.टी.एन.एल. के संबंध में कहा गया, एम..टी.एन.एल. एक स्वायत्त कंपनी है जिस का गठन वर्ष 1986 में कंपनी ऐक्ट के तहत किया गया है । इसकी इक्विटी की सरकार की भागीदारी करीब 53 प्रतिशत है । इसलिए यह अभी भी सरकार के द्वारा ओन्ड कंपनी है। श्री नीलोत्पल बसु जी ने एक पॉइंट उठाया कि 'ट्राय' की एकॉउंटेबिलिटी नहीं है और उन्होंने रिकमंडेटरी फंक्शन के संबंध में कहा। महोदय, रेगुलेटरी अथॉरिटी के फंक्शन के विरुद्ध ट्रिब्युनल में जा सकते हैं। यह चैक एंड बैलेंस तथा एकाउंटेबिलिटी सुस्पष्ट तरीके से इस बिल में रखी गयी है। अभी एक बात रखी गयी कि जज को ही क्यों इसमें चैयरमेन बनाया जाए। महोदय, अब इस में हम क्या करें, हम को बतलाया गया कि सुप्रीम कोर्ट का

कहीं निर्णय है कि जहां कोर्ट का जूरिस्डिक्शन समाप्त किया जा रहा है और ट्रिब्युनल्स बनाए जा रहे हैं, वहां ट्रिब्युनल का मुखिया रिटायर्ड जज होना चाहिए । इसलिए अपीलेट ट्रिब्युनल का मुखिया जज को बनाया गया है । रामचन्द्रैया जी ने कहा कि टी.आर.आई. की टेरिफ सेटिंग पावर ले ली गयी है। महोदय, टी.आर.आर.आई. की टैरिफ सेटिंग पावर नहीं ली गयी है। उन की पावर बरकरार है । यह भी कहा गया कि क्यों नहीं इसे स्टेंडिंग कमेटी को भेजा गया? महोदय, आप देख रहे हैं कि यह ऑर्डिनेंस का मामला है । कल इस की लास्ट डेट है । अगर यह कल तक पास नहीं हुआ तो टी.आर.आई. जिसकी सारी-की-सारी प्रोसेस चल पड़ी है - सारे लोगों की नियुक्ति प्रक्रिया शुरू हो चुकी है, यह सब रुक जाएगी। इस कारण स्टेंडिंग कमेटी में जाने के बाद तो हमारा सिस्टम ही कॉलेप्स हो जाएगा। माननीय विरुम्बी जी ने टेलीफोन सेवा में सुधार के संबंध में और श्री द्रुपद जी ने नॉर्थ ईस्ट का मामला उठाया। महोदय, मैं कहना चाहता हूं कि हम लोग भी इस संबंध में चिंतित हैं । महोदय, मैं तो गांव से आया हूं और जब रेल मंत्री था तब वहां रेल नहीं ले जा सका और अब संचार मंत्री हूं तो टेलीफोन भी नहीं ले जा सकता हूं क्योंकि वह एरिया बहुत इंटीरियर में है। महोदय, मेरा क्षेत्र कोसी के बेल्ट में आता है । अगर कोई टैक्नॉलोजी ऐसी हो या कोई वायरलेस सिस्टम ऐसा हो कि बिना केबल के काम चल जाय, तभी हम वह सिस्टम लागू कर सकते हैं। और इसलिए उस सिस्टम के लिए भी हम कोशिश कर रहे हैं, नए-नए सिस्टम, नई-नई टैक्नोलॉजी हम ला रहे हैं । तो जहां हमें कंज्यूमर का, कस्टमर्स के हित का ख्याल है, वहीं जो हमारा रूरल एरिया है, उस एरिया के लिए जल्दी से जल्दी टेलीफोन ही नहीं बल्कि बढ़िया से बढ़िया सुविधा और इंटरनेट की सुविधा हम प्रत्येक पंचायत दफ्तर पर देना चाहते हैं।...**(व्यवधान)**...हमारे कम्युनिस्ट साथी इंटरनेट के नाम पर हंसने क्यों लगते हैं ? संसार को आप कहां ले जाना चाहते हैं, लालटेन के युग में ले जाना चाहते हैं?

श्री नीलोत्पल बसु: हमें इंटरनेट पर कोई ऐतराज़ नहीं है, लेकिन पहले टेलीफोन की व्यवस्था तो कीजिए ।

श्री रामविलास पासवान: देश कहां जा रहा है, आप लालटेन के युग में ले जाना चाहते हैं, यह कैसे चलेगा? इसलिए हम चाहते हैं कि नई-नई टैक्नोलॉजी आए, गांवों में टेलीफोन का जाल बिछे। जब नई-नई टैक्नोलॉजी आएगी तो किसान को भी फायदा होगा, शैडयूल्ड कास्ट को भी फायदा होगा। आज गांव के लोग पिछड़े हुए क्यों हैं? इसलिए कि उनको इन्फ्रास्ट्रक्चर से दूर रखा गया है। इसलिए हम बढ़िया से बढ़िया, नई से नई टैक्नोलॉजी, सस्ती दर पर टेलीफोन की सुविधा, वर्ल्ड क्लास की टैक्नोलॉजी, नौजवानों के लिए, विद्यार्थियों के लिए देना चाहते हैं और हम चाहते हैं कि कम से कम संचार के मामले में भारत किसी से पीछे न रहे। इसलिए हम इस सदन से आग्रह करेंगे कि सारे मतभेदों

को भुलाकर, सर्वसम्मति से, जो आपके सामने आर्डिनेंस को बदलने का बिल आया है, इसको पास कीजिए और देश को नई क्रांति के पथ पर आगे बढ़ाने का काम कीजिए । धन्यवाद ।

THE VICE-CHAIRMAN (SHRI SANATAN BISI): I shall first put the Resolution moved by Shri Balwant Singh Ramoowalia to vote.

The question is:

"That this House disapproves of the Telecom Regulatory Authority of India (Amendment) Ordinance, 2000 (No.2 of 2000) promulgated by the President on 24th January, 2000."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI SANATAN BISI): I shall now put the motion moved by Shri Ram Vilas Paswan to vote.

The question is:

"That the Bill to amend the Telecom Regulatory Authority of India Act, 1997, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SANATAN BISI): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to15 were added to the Bill.
Clause 1, the Enacting Formula, and the Title were added to the Bill.

श्री रामविलास पासवान : उपसभाध्यक्ष जी, मैं प्रस्ताव करता हूं कि विधेयक को पारित किया जाए ।

The question was put and the Motion was adopted.

THE RECOVERY OF DEBTS DUE TO BANKS AND FINANCIAL INSTITUTIONS (AMENDMENT) BILL, 2000

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA): Sir, I beg to move: